

## LAWYERS REOPEN INDIAN LAND CASE

Missourians Claim Fees Have Not Been Paid.

### SUIT INVOLVES THOUSANDS

Wiley Olax and Edward T. Scarritt, Attorneys in Proceedings Settled in Part, Seek Bill of Mandamus Requiring Treasury Officials to Make Full Payments of Fees.

An Indian claim in which Robert L. Owen, now Senator from Oklahoma, Mrs. Belya Lockwood, and other prominent attorneys received fees aggregating \$15 per cent of nearly \$5,000,000 was again subjected to litigation yesterday by the filing of a suit in the District Supreme Court by Wiley Olax and Edward T. Scarritt, of Missouri, who claim the \$50,340.72 paid to them as their share is not full payment of the amount allowed by the Court of Claims.

The suit of Olax and Scarritt is a bill for mandamus upon Franklin MacVeagh, as Secretary of the Treasury, and Lee McClung, as Treasurer, requiring them to ascertain the amount alleged to be due complainants and to make the final payment.

The claim, as settled by the Court of Claims, has the original date of June 12, 1838. Act of Congress of March 3, 1903, made "appropriations for current and contingent expenses of the Indian Department," and the fees of attorneys in the claim were included in the appropriations. When the claim involved, that of the Cherokee Indians, was adjudicated finally by the Court of Claims on May 15, 1905, it was decided that \$1,111,234.70, with interest at 5 per cent from June 12, 1838, should be paid to the Indians, and that the attorney fees should be 15 per cent of the amount allowed.

The application for allowance of attorney fees was made to the Court of Claims by Robert L. Owen and Robert V. Bell, for the Eastern Cherokees, and by Mrs. Belya A. Lockwood for "The Eastern and Emigrant Cherokees."

Act of Congress Necessary. The Court of Claims held that the claim should be satisfied as soon as Congress enacted the necessary legislation for appropriation. The amount of the claim, including interest, was computed July 14, 1906, to be \$4,937,036.15, and attorney fees, at the rate of 15 per cent, were \$740,554.72. Of that sum, it was agreed that Mrs. Lockwood should receive \$15,000 for her services, the other attorneys proportionally making up that amount from their shares in the gross fee.

The court's order fixed the shares of the 15 per cent among the attorneys as follows: John Valle, three; Robert V. Bell, one and two-thirds; Scarritt and Olax, two; James K. Jones, one; Matthew C. Butler, one and one-half; William H. Robeson, one and one-half; and Robert L. Owen, four and one-half. On that percentage and that agreement as to Mrs. Lockwood's share, Scarritt & Olax were paid \$36,340.72. Senator Owen's share, at 4 per cent, was \$192,631.44, though in the bill filed yesterday it is not stated that actual payment was made to him.

The bill introduced yesterday by Olax and Scarritt alleges that the amount due on the claim could not be computed July 14, 1906, because it could not be then known when there would be a final payment, as the rolls of the Eastern Cherokees had not been approved. The rolls, it is stated, were approved March 15, 1910, and Olax and Scarritt claim that their attorney's fees should be 15 per cent of what would be due March 15. Their prayer is for mandamus to compel the Secretary of the Treasury and the Treasurer of the United States to ascertain the difference between the amount as of the day when final payment is actually made, with interest, and the amount computed July 14, 1906, the time of partial settlement, to-wit: \$4,937,036.15, on which the payment of attorney fees to Olax and Scarritt was made.

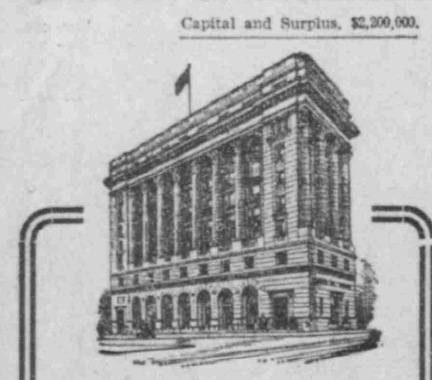
Difference Involves Thousands. The difference in attorney fees, if contention of complainants is upheld and payment granted, will be thousands of dollars; the difference in the full amount of the claim would be hundreds of thousands.

The bill filed yesterday is not in the interest of any other attorney in the claim than Olax and Scarritt. Whether other attorneys will also ask for additional payment is not known.

Mrs. McCarthy Laid at Rest. Funeral services for Mrs. Nellie C. McCarthy, wife of John B. McCarthy, who died at her home at Silver Spring, Md., Tuesday, were held yesterday morning in the chapel at Oak Hill Cemetery, and were attended by a number of friends. Rev. Dr. A. H. Thompson, of Waugh M. E. Church, conducted the services.

Former Senator Call Buried. The funeral of former United States Senator Wilkinson Call, of Florida, who died Wednesday at the Emergency Hospital, was held yesterday morning. Only the immediate members of the family and relatives attended the services at the Oak Hill Cemetery Chapel, where Rev. C. T. Warner, vicar of St. David's Mission, officiated. There were no pallbearers.

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Union Trust Co., EDWARD J. STELLWAGEN, President.

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## MARRIED FIFTY YEARS TO-DAY.



MR. AND MRS. VALENTINE MENDEL, Who will celebrate their golden wedding by a family reunion during the day and reception in the evening.

Mr. and Mrs. Valentine Mendel will observe their golden wedding anniversary to-day at their home, 1330 Fort drive, Brookland, D. C. Throughout the day there will be a family reunion, and in the evening from 7 to 10 o'clock Mr. and Mrs. Mendel are to receive their many friends from all parts of the city. Their children will assist them, the list including Elmer T. Mendel, of Albion, Iowa; Albert V. Mendel, of Dennison, Iowa; Mrs. S. S. Symons and Charles L. Mendel, of Washington, and Mrs. Charles L. Hennings, of Los Angeles, Cal. Mr. and Mrs. Mendel came to Washington in 1858, when Mr. Mendel accepted a position in the Government Printing Office after being editor of the Albion (Iowa) Union for eighteen years. He was a member of Company B of the Sixth Iowa Regiment during the civil war, serving for three years. Born in Wellsburg, Va., which was then Virginia, seventy-two years ago, Mr. Mendel after growing to young manhood decided to go West. A short time later he was married to Miss Louisa A. Clapp, of Columbus, Ohio, the wedding taking place in Dahlgren, Iowa. One of the features of the celebration will be the attendance of Mrs. Mendel's twin brother, L. A. Clapp, of Iowa.

## DR. WU A DELEGATE.

China Sends Him to Hague Court of Arbitration.

William J. Calhoun, Minister to China, yesterday dispatched to the State Department a dispatch regarding the Chinese delegates to the Hague permanent court of arbitration. They are Dr. Wu Ting-fang, Hu Wei-to, Liu Shih-hsun, and Mr. von den Heuvel. Dr. Wu Ting-fang is well known in the United States, having served as minister here. Mr. Hu Wei-to was formerly Minister to Russia and more recently to Japan. He has within a few days past been transferred to the foreign office at Peking. He is a progressive official and speaks English and French fluently, and is the present Chinese Minister to France. The last name in the list is that of a Belgian, plenipotentiary minister of justice and Belgian plenipotentiary to the second Hague peace conference. He will be of assistance as an adviser in European law.

## MORSE'S PARDON ASKED.

Department of Justice Receives Letters from All Sections. Letters received at the Department of Justice from persons in various sections of the country urge the pardon of Charles W. Morse, the convicted New York banker, who is serving a term in the Atlanta prison.

Many letters protest against favorable action on the application that is soon to be made for a pardon for John R. Walsh, the Chicago banker, who is serving a term at Leavenworth.

## WEATHER CONDITIONS.

U. S. Dept. of Agriculture, Weather Bureau, Washington, Thursday, August 25-3 p. m. The upbuilding and southerly spread of the northwestern high pressure area was accompanied by a decided fall in temperature that covered the Rocky Mountain region, the Plains States, the great Central valley, except the Upper Ohio, and the Upper Lake region.

Local Temperature. Midnight, 72; 2 a. m., 72; 4 a. m., 70; 6 a. m., 71; 8 a. m., 72; 10 a. m., 74; 12 noon, 83; 2 p. m., 86; 4 p. m., 87; 6 p. m., 86; 8 p. m., 82; 10 p. m., 78. Maximum, 87; minimum, 70. Relative humidity—8 a. m., 87; 2 p. m., 91; 8 p. m., 81. Barometer—2 p. m., 30.02. Hourly sunshine, 7.5. Per cent of possible sunshine, 57. Temperature same date last year—Maximum, 91; minimum, 62.

Temperatures in Other Cities. Temperatures in other cities, together with the amount of rainfall for the twenty-four hours ended at 8 p. m. yesterday, are as follows:

	Max.	Min.	8 p. m.	Rain.
Asheville, N. C.	74	61	73	0.30
Atlanta, Ga.	84	68	80	...
Atlantic City, N. J.	80	74	78	...
Bismarck, N. D.	82	62	68	0.20
Boston, Mass.	86	70	78	...
Buffalo, N. Y.	84	72	80	...
Chicago, Ill.	82	70	78	...
Cincinnati, Ohio	88	72	82	...
Cheyenne, Wyo.	80	60	68	...
Dayton, Ohio	82	62	68	...
Del Rio, Tex.	80	60	68	...
Des Moines, Iowa	80	60	68	...
El Paso, Tex.	82	62	68	...
Helena, Mont.	80	60	68	...
Indianapolis, Ind.	78	72	82	1.30
Jacksonville, Fla.	86	78	82	...
Kansas City, Mo.	82	62	68	...
Little Rock, Ark.	88	74	74	3.22
Los Angeles, Cal.	84	58	71	...
Madison, Wis.	82	62	68	0.03
Memphis, Tenn.	84	72	80	...
New Orleans, La.	82	70	76	2.36
New York, N. Y.	80	60	68	...
North Platte, Neb.	80	60	68	...
Omaha, Neb.	80	60	68	0.06
Pittsburg, Kan.	82	62	68	...
Portland, Me.	82	60	68	...
Portland, Ore.	78	60	68	...
Salt Lake City, Utah	80	60	68	...
St. Louis, Mo.	78	60	68	...
St. Paul, Minn.	80	60	68	...
San Francisco, Cal.	80	60	68	...
Springfield, Ill.	80	60	68	...
Tacoma, Wash.	80	60	68	...
Toledo, Ohio	84	72	84	0.34
Vicksburg, Miss.	82	70	78	...

Tide Table.

To-day—High tide, 12:13 a. m.; low tide, 6:27 a. m.; 6:34 p. m.

To-morrow—High tide, 12:42 a. m.; 1:06 p. m.; low tide, 7:25 a. m.; 7:50 p. m.

Condition of the Water.

Special to The Washington Herald.

Harpers Ferry, W. Va., Aug. 25.—Both rivers clear.

Ocean Steamships.

New York, Aug. 25.—Arrived: Mauretania, Liverpool, August 20.

Sailed from foreign ports: Oceano, from Queens-

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El Paso, Tex.	82	62	68	...
Helena, Mont.	80	60	68	...
Indianapolis, Ind.	78	72	82	1.30
Jacksonville, Fla.	86	78	82	...
Kansas City, Mo.	82	62	68	...
Little Rock, Ark.	88	74	74	3.22
Los Angeles, Cal.	84	58	71	...
Madison, Wis.	82	62	68	0.03
Memphis, Tenn.	84	72	80	...
New Orleans, La.	82	70	76	2.36
New York, N. Y.	80	60	68	...
North Platte, Neb.	80	60	68	...
Omaha, Neb.	80	60	68	0.06
Pittsburg, Kan.	82	62	68	...
Portland, Me.	82	60	68	...
Portland, Ore.	78	60	68	...
Salt Lake City, Utah	80	60	68	...
St. Louis, Mo.	78	60	68	...
St. Paul, Minn.	80	60	68	...
San Francisco, Cal.	80	60	68	...
Springfield, Ill.	80	60	68	...
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## SURVEY PARTY SAFE

Washington Men Escape Forest Fires in Idaho.

### FIGHT FLAMES FOR DAYS

H. S. Gale and Party from Geological Survey Telegraph of Their Safety After Prolonged Struggle in Devastated Section—Says Stories of Losses Are Not Exaggerated.

Fighting their way through smoke so dense that, at times, it was impossible to see a foot in front of them, four Washington men, members of the Geological Survey, have emerged safely from the burned districts in Idaho, and are now at Debordia.

In the brave little party of geologists who were cut off from civilization for days by the forest fires are H. S. Gale, E. Eggleston Smith, Ralph W. Stone, and Ed C. Hawkins, all of this city. Immediately upon their arrival at Debordia they telegraphed to relatives here of their safety.

Friends of the geologists in this city have been spending sleepless nights since the stories came from the West of the appalling devastation wrought by the flames. Wild reports that some of the party had perished reached the city, and for several days attempts have been made to get in communication with Avery, Idaho, where they made their headquarters.

### Message Brings Joy.

Yesterday word came of their safety and brought joy to the families of the men and officials at the Geological Survey offices. W. B. Meroy, assistant geologist, received a message from Debordia yesterday. In speaking of the work of the party last night Mr. Meroy said:

"The men started out under the leadership of Mr. Gale, and composed one of several such parties on geological survey work in that territory. As we understand it, they were driven from Avery by the fires, and for several days fought through smoke and flames to a safe point 30 miles distant."

They will return to Washington about October 1. We have received official report from the party as yet, though personal messages say the accounts of the devastating work of the flames and the loss of life have not been exaggerated."

### Twenty Seal Pups Ordered.

Will Be Placed in Different Sections for Experimenting.

Commissioner of Fisheries George W. Bowers yesterday began to make arrangements for the transportation of twenty fur seal pups, which will arrive in Seattle from the Pribilof Islands, off the coast of Alaska, within the next ten days.

In October last Mr. Bowers caused to be brought to this country two fur seal pups for the purpose of making an experiment as to whether they would live and thrive outside of their native cold water off the little islands which form a part of Alaska.

So successful has been Mr. Bowers' experiment that it was decided to bring ten additional male and ten female pups from off the rookeries and place them in different parts of the United States to complete the experiment.

## DEMOCRATS IN BIG RALLY

Hyattsville Voters Indorse J. Enos Ray, Jr., for Congress.

Largest Political Gathering in Town for Years Hears Organization Element Rebuked.

Five hundred Hyattsville Democrats gave unanimous indorsement to the candidacy of J. Enos Ray, Jr., for the Fifth Maryland Congressional nomination at a big mass meeting in Masonic Temple, Hyattsville, last night. The gathering was the most enthusiastic political rally held in the town for many years.

Mayor William P. Magruder, vice president of the Hyattsville Democratic Club, presided.

Charles J. Calvert, the first speaker, scathingly rebuked the organization of Prince George County, and had words of praise for Mr. Ray's political record. The contest, he said, had developed into a choice between honest and dishonest politicians.

Joseph Fanning, who followed Mr. Calvert, attacked the organization, taking for his theme "The Pharisee in politics." His address was forceful and brought cheer after cheer from the big assembly.

Mr. Ray was the last speaker, and made a spirited address. He spoke of his record in the State legislature and attacked the Waste road bill, passed by the last legislature. He also pointed out that the new road engineer "is a man brought from the District of Columbia." He expressed confidence of being chosen next Tuesday, but promised his support to Candidate Stanley, if the latter is chosen.

### INJURED IN QUARRY BLAST.

Polish Workman Struck by Flying Rocks Above Georgetown.

Abraham Bear, a Polish workman at a stone quarry on the Virginia side of the Potomac River, was brought to Georgetown University Hospital yesterday afternoon. He was injured by flying rocks in a quarry blast.

It is said that a warning was not given and several workmen narrowly escaped serious injury. At the hospital last night it was stated that although Bear was badly bruised about the body, his injuries would not prove serious.

### Big Crowds at Horse Show.

Harrisonburg, Va., Aug. 25.—The fifth annual exhibition of the Lacey Springs Horse Show closed to-day, after two days' successful exhibition. The entries were numerous and of a high grade, while the racing was exceptionally good. Twenty-five hundred persons were present yesterday, while 3,000 were in attendance to-day.

### Believe Spies Are Officers.

Berlin, Aug. 25.—Telegraphic dispatches received to-day from Emden state that the military authorities there suspect that the two alleged British spies arrested recently are disguised British officers.

## PLAN BIG DAY FOR KIDDIES.

Programmes Arranged for Field Events at Two Playgrounds.

Elaborate programmes have been arranged for the field day events at the Rosedale and Howard playgrounds for Saturday afternoon, and it is expected that the games will surpass any held in the city this year. The Washington Playground Association will have charge of the events, which will begin at 4:30 o'clock.

At Rosedale the programme will include the following: Girls' events—Children's polka, German klap dance, bleking dance, pass dance, overtake, tether, and indoor baseball. Boys' events—Running races, potato race, relay race, high jump, volleyball, baseball.

The Howard playgrounds programme is as follows: Ring games, folk dancing, tether ball, croquet, gymnastic drill, acrobatics, tennis, field and track games, and exhibit of industrial work.

## MEDICS ELECT CURTIS

Washington Physician Is Chosen President of Body.

### CONVENTION FINISHES WORK

Following Wind-up of Business and Selection of Newport News as Next Meeting Place, Visitors Are Given Reception and Ball, Judge and Mrs. Terrell Leading Grand March.

Dr. Austin M. Curtis, of this city, was elected president of the National Medical Association at the final meeting of the national convention, held late yesterday afternoon in Andrew Rankin Hall, Howard University.

Dr. Curtis is one of the founders of the Providence Hospital at Chicago, and was for some years surgeon-in-chief of Friedman's Hospital here. Drs. G. W. Cabaniss, W. S. Lofton, and J. W. Mitchell were nominated for the office, but withdrew in favor of Dr. Curtis.

Following are the other officers: Dr. W. H. Sloane, vice president; Dr. Henry S. Pope, Baltimore, Md., pharmaceutical vice president; Dr. John A. Kenny, secretary, and A. Wilberforce Williams, treasurer. Heads of departments—Medical, Dr. J. J. France, Portsmouth, Va.; dental, Dr. R. G. Baker, Baltimore, Md.; pharmaceutical, Dr. W. C. Jones, Winston-Salem, N. C., and surgical, Dr. Brown, Birmingham, Ala.

### Advanced Methods Shown.

Dr. W. A. Warfield, surgeon-in-chief of Freedmen's Hospital, aided by two assistants, has conducted clinics for the benefit of the visiting physicians for the past two days. Two sessions have been devoted to abdominal operations and one to general surgery. Yesterday morning five abdominal operations were performed to illustrate advanced methods in the removal of tumors.

Dr. George W. Bowles, of York, Pa., spoke yesterday morning on tuberculosis. Slavery, he said, is partly responsible for this disease, as plantation owners did not teach their slaves the rules of hygiene, and the result was a weakened vitality among the negroes.

A grand ball and reception was held at Convention Hall last night in honor of the visitors. This was the most important social feature of the convention and was successfully handled by the committee in charge, of which Judge Robert H. Terrell is chairman. Supper was served, and an orchestra of thirty pieces furnished the music. Judge and Mrs. Terrell led the grand march, which was the feature of the evening.

The National Medical Association will hold its next annual meeting at Hampton, Va.

### SENATOR FLINT UNDER FIRE.

Suit to Determine Ownership of Land Involves High Officials.

Los Angeles, Cal., Aug. 25.—United States Senator Flint's name appeared in the testimony to-day before United States Surveyor General Archer, in a suit to determine whether the State or the Federal government has title to 100,000 acres of valuable bottom lands in Riverside County, along the Colorado River, fifty miles above Yuma. L. L. Morse, rancher and hotel keeper, of Palo Verde Valley, in which the land is located, testified he was induced to file on some of the land as State land, on representation of J. H. Levering, civil engineer, who wished to have the land declared State property. Morse said:

"Levering declared I might as well get in on this, as Senator Flint was taking care of the Washington end, and the law firm of Gray, Barker & Bowen, of Los Angeles, was handling this end."

This firm includes Senator Flint, who still keeps his offices with them.

### WALKS STREETS IN DAZE.

Overcome by Heat, Man Wanders About City for Hours.

Mentally deranged by the heat while on his way to work yesterday morning, Harry Gundersheimer, of 511 Morton street northwest, wandered about the streets of Washington all day yesterday, causing his family and the police much anxiety and trouble in trying to find him. About 5 o'clock yesterday afternoon he staggered into his home, and was not able to tell where he had spent the day.

Gundersheimer left his home yesterday morning about 8 o'clock for a local dairy, where he was employed. At 11 o'clock he had not appeared for work. The police were notified. He is now critically ill at his home.